

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**CHELSEA WILLIAMS and
NICHOLAS WILLIAMS,**

Plaintiffs,

v.

BOROUGH OF OLYPHANT, et al.,

Defendants.

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**3:13-CV-02945
(JUDGE MARIANI)**

ORDER


AND NOW, THIS 12TH DAY OF FEBRUARY, 2016, upon consideration of Defendant Argenta and the Borough of Olyphant's Motion to Dismiss (Doc. 54), **IT IS HEREBY ORDERED THAT** Defendants' Motion (Doc. 54) is **GRANTED**, to wit:

1. Count IX of the Second Amended Complaint, "Abuse of Process," is **DISMISSED WITH PREJUDICE** with respect to the Borough of Olyphant.
2. Count IX of the Second Amended Complaint, "Abuse of Process," is **DISMISSED WITHOUT PREJUDICE AND WITH LEAVE TO AMEND** to allege a claim for malicious prosecution with respect to Defendant Argenta.

i. Plaintiffs shall have **SEVEN (7) DAYS** from the date of this Order in which to either:

1. Submit a Third Amended Complaint that cures the defects cited in the Memorandum Opinion (Doc. 93) as to Count IX; or

2. File notice that it does not intend to file a Third Amended Complaint, in which case the Second Amended Complaint (Doc. 49), as modified by this Order, will be the operative Complaint.
- ii. In the event that Plaintiffs file notice that they will not amend the Complaint, Defendants' obligation to respond to the Second Amended Complaint will begin to run from the date that such notice is provided.



Robert D. Mariani
United States District Judge